

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

CHARLES S. DERITO,	:	CIVIL DIVISION
	:	
Plaintiff,	:	
	:	Civil Action No.:
V.	:	
	:	
WAL-MART STORES EAST, L.P.,	:	<i>Electronically Filed</i>
	:	
Defendant.	:	

NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the Western District of Pennsylvania

This Notice of Removal is filed by Defendant Wal-Mart Stores East, L.P. asserting as follows:

1. The above-described action was commenced by the filing of a Complaint on or about May 9, 2019 in the Court of Common Pleas of Westmoreland County, Pennsylvania, against Defendant, Wal-Mart Stores East, L.P.. (A true and correct copy of the Complaint is attached hereto as Exhibit "A".)
2. Wal-Mart Stores East, L.P. is a foreign limited partnership formed in Delaware with a principle place of business in Bentonville, Arkansas.
3. The Partners of Wal-Mart Stores East, L.P. are WSE Management, LLC (general partner) and WSE Investment, LLC (limited partner). Both are Delaware limited liability companies with principal places of business in Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, an Arkansas limited liability company with a principal place of business in Bentonville, Arkansas. Finally, the sole shareholder of Wal-Mart Stores East, LLC is Wal-Mart Stores, Inc., a Delaware

corporation with a principal place of business in Arkansas. Accordingly, no partner or controlling entity of Defendant Wal-Mart Stores East, L.P. is a citizen of or has a principal place of business in the Commonwealth of Pennsylvania.

4. Plaintiff served Defendant with a copy of the Complaint on May 24, 2019. (*See Affidavit of Service attached hereto as Exhibit "B".*)

5. Defendant believes that at the time this action was initially commenced, and at the current time, Plaintiff was a resident of Westmoreland County, Pennsylvania.

6. The Complaint seeks an award in excess of the arbitration limits of Westmoreland County (\$30,000.00), but no specific sum is demanded in the Complaint.

7. Among other injuries, it is understood that Plaintiff claims damages for a serious injury to his neck, head, right hip, right wrist, right hand, right thumb, right shoulder, including alleged right shoulder full thickness rotator cuff tear, right shoulder superior labrum anterior to posterior tear, and right bicep tenosynovitis, which may require surgical procedures, injections, and/or physical therapy.

8. Based on these alleged injuries and damages, Plaintiff's counsel has advised the undersigned counsel that this case is valued in excess of \$75,000.00.

9. This Notice of Removal is filed within thirty (30) days after Defendant, Wal-Mart Stores East, L.P., was served with a copy of Plaintiff's Complaint on May 24, 2019, which apprised this Defendant of the amount in controversy, and within one (1) year of the commencement of this matter by Plaintiff on May 9, 2019 by the filing of the Initial Complaint; thus, it is timely filed pursuant to 28 U.S.C. §1446(b) (3) and (c).

10. As all of the parties to this action are diverse and the amount in controversy exceeds \$75,000, this Court has original jurisdiction under the provisions of 28 U.S.C. §1332

and this case may be removed to this Court by this Defendant pursuant to the provisions of 28 U.S.C. §§1441 and 1446.

WHEREFORE, Defendant Wal-Mart Stores East, L.P. requests that this action now pending in the Court of Common Pleas of Westmoreland County at No. 2319 of 2019 be removed to this Honorable Court.

JURY TRIAL IS DEMANDED.

Respectfully submitted,

THOMAS, THOMAS & HAVER LLP

Date: 6-21-2019

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L.P.*